IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT :	Alistair David Griffith Lawson		
SERIAL NO. :	09/674,722	EXAMINER:	Marianne DiBrino
FILED :	June 27, 2001	ART UNIT :	1644
FOR :	Chimeric Receptors		

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Carolyn Di Meglio
(Name of Depositor)

Carolyn Di Meglio 7/24/03
(Signature and Date)

RESPONSE TO REQUIREMENT FOR RESTRICTION
UNDER 35 U.S.C. §121

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the Office Action dated June 25, 2003, issued in connection with the above-identified Application, which is now due for response on July 25, 2003, please consider the following remarks.

REMARKS

By this Office Action, the Examiner has required restriction to one of the following inventions under 35 U.S.C. §121:

Group I. Claims 19-33, drawn to a chimeric receptor.

Group II. Claims 34-39, drawn to a nucleic acid sequence encoding a chimeric receptor, a plasmid comprising said nucleic acid sequence encoding said receptor.

Group III. Claims 40 and 41, drawn to an effector cell containing a nucleic acid sequence encoding a chimeric receptor and/or expressing the chimeric receptor.

Responsive to the Requirement for restriction, Applicants elect to prosecute the invention of Group II, with traverse, Claims 34-39, which are drawn to a nucleic acid sequence encoding a chimeric receptor and a plasmid comprising said nucleic acid sequence encoding said receptor.

Applicants respectfully request reconsideration of the Requirement for Restriction, or in the alternative, modification of the Restriction Requirement to allow prosecution of more than one group of Claims designated by the Examiner in the present Application, for the reasons provided as follows.

Under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one Application may ... be restricted to one of the inventions." Inventions are "'independent'" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "'distinct'" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE OVER EACH OTHER" (MPEP 802.01) (emphasis in original). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

Further, under Patent Office Examining Procedures, "[i]f the Search and Examination of an entire Application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803, Rev. 8, May 1988) (emphasis added).

Applicants respectfully submit that the groups designated by the Examiner fail to define different compositions, with properties so distinct as to warrant separate Examination and Search. Claims 19-33 of Group I, which are drawn to a chimeric receptor, are fundamentally related to Claims 34-39 of Group II, drawn to a nucleic acid sequence encoding a chimeric receptor and a plasmid comprising said nucleic acid sequence encoding said receptor. The search for any of the compositions separately classified by the Examiner as the invention of Group I would require an additional search of the **identical** classes wherein the claims of Group II are classified, thus resulting in a duplicate search for the same material. Moreover, claims 40 and 41 of Group III drawn to an effector cell containing a nucleic acid sequence encoding a chimeric receptor and/or expressing the chimeric receptor are also related to Claims 34-39 of Group II, drawn to a nucleic acid sequence encoding a chimeric receptor and a plasmid comprising said nucleic acid sequence encoding said receptor. Indeed, the search for any of the compositions separately classified by the Examiner as the invention of Group III would require an additional search of the **identical** classes wherein the claims of Group II are classified, thus resulting in a duplicate search for the same material. Thus, Applicants submit that the Search and Examination of the entire Application, or, at least, of Group II with Group III can be made without serious burden, and therefore the Examiner is requested to examine all of the claims of the Application on the merits.

In accordance with the Examiner's request and pursuant to the election of the claims of Group II, Applicants elect the plasmid pHMF374 of Figure 3.

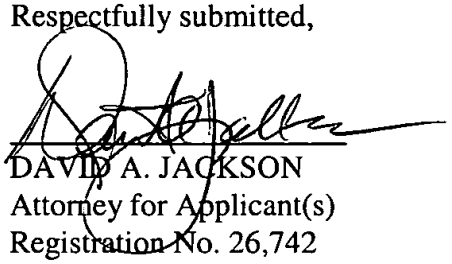
The Examiner has also indicated that Applicants are required to elect a nucleic acid sequence encoding a specific chimeric receptor with a specific number of independent polypeptide chains comprising a specific extracellular ligand association domain, a specific spacer domain, a specific transmembrane domain, and a specific intracellular domain(s). Accordingly, Applicants elect a specific chimeric receptor comprising two independent polypeptide chains, wherein a first polypeptide chain comprises an extracellular domain of an antibody heavy chain variable region, a spacer domain of any polypeptide comprising 20 to 100 amino acid residues, a transmembrane domain of any oligonucleotide or polypeptide derived from all or part of a human CD4 transmembrane domain, and an intracellular domain which is a signaling domain comprised of any naturally occurring polypeptide signaling sequence that is all or part of the human CD4 intracellular signaling domain; and a second polypeptide chain comprises an extracellular domain of an antibody light chain variable region, a spacer domain of any polypeptide comprising 20 to 100 amino acid residues, a transmembrane domain of any oligonucleotide or polypeptide derived from all or part of a human CD4 transmembrane domain, and an intracellular domain which is a signaling domain comprised of any naturally occurring polypeptide signaling sequence that is all or part of the T cell receptor zeta chain.

The Examiner's assertions to the contrary notwithstanding, Applicants respectfully submit that conjoint examination and inclusion of all of the Claims of the present Application would not present an undue burden on the Examiner, and accordingly, withdrawal of the Requirement for Restriction, or, at the least, modification to include the Claims drawn to Group II and Group III is in order.

No fees are believed to be necessitated by the foregoing Response. However, should this be erroneous, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment, or credit any overages.

In view of the above, withdrawal of the Requirement for the Restriction is requested, and an early action on the merits of the Claims is courteously solicited.

Respectfully submitted,



DAVID A. JACKSON
Attorney for Applicant(s)
Registration No. 26,742

KLAUBER & JACKSON
411 Hackensack Avenue
Hackensack, New Jersey 07601
(201) 487-5800

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